<center>REMARKS/ARGUMENTS</center>

Applicants graciously appreciate the Office's attention to the instant application.

In view of the following remarks, Applicants respectfully request reconsideration and allowance of the subject application. This amendment is believed to be fully responsive to all issues raised in the April 16, 2008 Office Action.

Claims 1, 10, 11, 18, 26, 27, 32, 37, 39, and 47 are amended, claims 5, 14, 31, 36 and 45 are canceled, and claims 1-4, 6-13, 15-30, 32-35, 37-44 and 46-52 are pending and believed to be in condition for allowance.

<u>In the Claims</u>
Rejection under §101: Claims 10 and 27-38

The Office rejected claims 10 and 27-38 as being directed toward non-statutory subject matter. As amended claims 10 and 27-38 are submitted to be directed toward statutory subject matter and the rejection should be withdrawn.

Rejection under §102(e): Claims 1-52

The Office rejected claims 1-52 under 35 USC §102(e) as being anticipated by Humpleman et al. (USPN 6,466,971), referred to herein as the Humpleman reference.

Applicant notes that claims 1, 11, 18, 26, 27, 32, 37, 39, 47 and 50 are independent claims.

The pending Office Action is structured as follows:

(a) At pages 3 to 5, the Office provides evidence and reasoning for rejecting claims 1-10;

(b) At pages 6 to 8, the Office provides evidence and reasoning for rejecting

claims 11-17;

(c) At page 8, the Office states: "Claims 18-25 are similar to claims 11-17, respectively, therefore are rejected under the same rationale";

(d) At page 8, the Office provides evidence and reasoning for rejecting claim 26;

(e) At page 9, the Office states: "Claims 27-31 are similar to claims 1-5, respectively, and therefore are rejected under the same rationale". The Office further states: "Claims 32-36 are similar to claims 1-5, respectively, and therefore are rejected under the same rationale". The Office notes an "only difference" as "it is being resolved without user intervention";

(f) At pages 9 -11, the Office provides evidence and reasoning for rejecting claims 39-46;

(g) At page 11, the Office states: "Claims 47-49 are similar to claims 39-41, respectively, and therefore are rejected under the same rationale"; and

(h) At pages 11-12, the Office provides evidence and reasoning for rejecting claims 50-52.

In summary, the Office Action provides specific evidence and reasoning for rejecting claims 1-17, 26, 39-46 and 50-52. The Office rejects claims 18-25, 27-38 and 47-50 by noting similarities to other rejected claims.

Claim Amendments: Independent Claims 1, 11, 27, 32 and 39

Claims 1 and 5: Applicants currently amend independent claim 1 to recite subject matter of canceled dependent claim 5, which recited in part: *"building a distributed software infrastructure from an optimized distributed topology such that the distributed software infrastructure is configured to stream data from the source device to the client*

device without rendering the data with the source device before the data is streamed".
Hence, claim 5 may be considered as being represented as independent claim 1.

Now canceled dependent claims 14, 31, 36 and 45 recite similar subject matter.
The subject matter of these dependent claims now appears in independent claims 11, 27,
32 and 39, respectively. Hence, dependent claim 14 may be considered as being
represented as independent claim 11, dependent claim 31 may be considered as being
represented as independent claim 27, dependent claim 36 may be considered as being
represented as independent claim 32 and dependent claim 45 may be considered as
being represented as independent claim 39.

Rejection of Dependent Claim 5 (as well as claims 14, 31, 36 and 45)

At page 4 of the pending Office Action, the Office states:

> Regarding claim 5, Humpleman teaches a method as described in claim 1,
> further comprising building a distributed software infrastructure from an
> optimized distributed topology such that the distributed software
> infrastructure is configured to stream data from the source device to the client
> device without rendering the data with the source device before the data is
> streamed (col. 7, line 62-col. 8, line 14).

As discussed below, Applicants disagree as the cited evidence (Humpleman at
col. 7, line 62 to col. 8, line 14) does not support this finding. Further, as discussed
below, independent claims 26, 37, 47 and 50 recite similar subject matter. Thus,
Applicants submit that this issue is dispositive of all the rejections.

Specifically, the evidence cited by the Office at col. 7, line 62 to col. 8, line 14
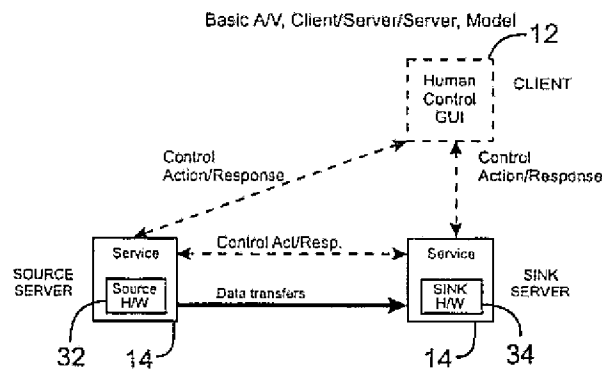refers to Fig. 8 of the Humpleman reference. For ease of review, Fig. 8 is reproduced
below:

Basic A/V, Client/Server/Server, Model ⌐12

FIG. 8

Applicants submit that this evidence is insufficient to support the underlying finding of fact for the anticipation rejection of dependent claim 5. For example, the "data transfers" arrow of Fig. 8 of the Humpleman reference is from the "source server" to the "sink server" while the client only has "control action/response" arrows. Thus, the evidence is insufficient to disclose the subject matter of claim 5 (e.g., "*to stream data from the source device to the client device without rendering the data with the source device before the data is streamed*") under the standards of 35 USC §102. Similarly, this evidence is now insufficient to support the rejection of independent claim 1.

More specifically, it appears that the principle of operation of the system in the Humpleman reference differs from that of the subject matter of claim 1, as currently amended, because the Humpleman reference concerns data transfers between servers rather than from a source to a client. While the pending rejection is under §102, even a rejection under §103 would be inappropriate as, per MPEP §2143.01, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie obvious*". In other words, a modification to

stream data from the server 14 (either) to the client 12 would change the principle of operation of the system of Fig. 8 if the Humpleman reference.

Below, Applicants discuss other evidence cited by the Office to demonstrate why the rejections of the pending independent claims are in error.

Claims 1, 11, 18, 26, 27, 32, 37, 39, 47 and 50

Claim 1 recites *inter alia*: "building a distributed software infrastructure from an optimized distributed topology, the distributed software infrastructure configured to *stream data to the client device from the source device without rendering the data by the source device*". Similarly claims 11, 18, 26, 27, 32, 37, 39, 47 and 50 recite similar limitations. For example, claim 47 recites inter alia "the software component that, when executed by the source device, *streams data without rendering the data* that is to be rendered". Claim 50 recites inter alia "*stream the compressed data without rendering the compressed data*".

While the Office cites the Humpleman reference at various points, Applicants assert that Humpleman is silent with respect to such claimed functionality (see, e.g., aforementioned evidence to reject dependent claim 5).

Further, with respect to claim 50 the Office Action stated "Regarding claim 50, Humpleman teaches a system comprising: a network (figure 3: 10); a source device which is configured to: compress data (col. 8, lines 15-33); and stream the compressed data without rendering the compressed data (col. 24, lines 47-52)". However col. 24 lines 47-52 state "stream_format', provides packet format and/or compression standard for digital stream audio and video split. If more than one format is provided, a desired format can be selected via an interface message. A controller application 82 can examine the available formats to determine if there are compatible ones." Notably

Humpleman is silent with respect to streaming data to the client device from the source device without rendering the data by the source device.

Applicants submit that the objective evidence of record is insufficient to support an anticipation rejection or an obviousness rejection of claims 1, 11, 18, 26, 27, 32, 37, 39, 47, and 50, as originally presented and as currently amended.

As stated above, Applicants currently amend claims 1, 11, 18, 26, 27, 32, 37, and 39 to recite "stream data from the source device to the client device without rendering the data with the source device before the data is streamed" (or similar). The Humpleman reference does not disclose, teach, or suggest streaming data without rendering the data. Thus, Applicants submit that the objective evidence of record is insufficient to support an anticipation rejection or an obviousness rejection of 1, 11, 18, 26, 27, 32, 37, and 39, as currently amended, and claim 50 as originally presented.

Claim 2

Additionally, claim 2 recites "**discovering the capabilities of the client device to render a stream of data; discovering the capabilities of the source device to stream data that is to be rendered; and** *deriving the distributed topology from both said capabilities*".

Notably Humpleman is silent with respect to *deriving a distributed topology* from both discovered capabilities of the source device and the client device. Specifically, Applicants fail to find sufficient evidence at col. 2, lines 52-63 [Summary of Invention], col. 9, lines 9-18 [Fig. 9] and col. 10, lines 1-19 [Fig. 10] of the Humpleman reference (as cited by the Office) to disclose, teach or suggest the subject matter of dependent claim 2, especially given its dependence on currently amended claim 1. Instead, Applicants merely find evidence of a "Capabilities Table"

with columns headed "Service" and "Sink/Source" (see Fig. 10 of the Humpleman
reference). Applicants submit that this is not a derived distributed topology per claim
2. For support, Applicants respectfully direct the Office to the method 2600 of Fig. 26
of the instant Application, which shows a block 2610 to "derive a distributed topology
based on the discovered capabilities". Applicants submit that the "Capabilities Table"
does not substantively teach or suggest the subject matter of claim 2.

Claim 8

Additionally claim 8 recites *inter alia* "the distributed software infrastructure
includes a distributed media session that provides a federated mechanism for control,
whereby: *the at least one software component that is executable on the source
device is controllable by the distributed media session*; and the at least one *software
component that is executable on the client device is controllable by the distributed
media session*".

Notably Humpleman is silent with respect to a software component that is
executable on both the source device and the client device and controllable by the
distributed media session. Specifically, Applicants fail to find sufficient evidence at
col. 8, line 64 to col. 9, line 7 [Fig. 9] of the Humpleman reference (as cited by the
Office) to disclose, teach or suggest the subject matter of dependent claim 8,
especially given its dependence on currently amended claim 1. Fig. 9 of the
Humpleman reference shows a client, a server 1 (data source eg DVCR) and a server 2
(data sink eg ½ DVT). Applicants submit that this is not analogous to the claimed
"distributed media session" (also see, e.g., DMS 126 of Figs. 16 and 18 of the instant
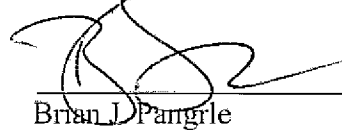Application, which can resolve a distributed topology).

Conclusion

Claims 1-4, 6-13, 15-30, 32-35, 37-44, and 46-52 are pending and believed to be in condition for allowance. Should any issue remain that prevents allowance and immediate issuance of the instant application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

Respectfully Submitted,

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